

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4263

**[Report No. 103-606, Part I]**

To promote the participation of small business enterprises, including minority small businesses, in Federal procurement and Government contracts, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 20, 1994

Mr. LAFALCE introduced the following bill; which was referred to the  
Committee on Small Business

JULY 14, 1994

Reported with an amendment and referred to the Committee on Government Operations for a period ending not later than August 5, 1994, for consideration of such provisions contained in the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(j), rule X

[Strike out all after the enacting clause and insert the part printed in italic]

AUGUST 3, 1994

Referral to the Committee on Government Operations extended for a period ending not later than August 12, 1994

AUGUST 12, 1994

Additional sponsor: Ms. BROWN of Florida

AUGUST 12, 1994

The Committee on Government Operations discharged; referred to the  
Committee of the Whole House on the State of the Union

[For text of introduced bill, see copy of bill as introduced on April 20, 1994]

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# A BILL

To promote the participation of small business enterprises, including minority small businesses, in Federal procurement and Government contracts, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
 2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       *This Act may be cited as the “Small Business and Mi-*  
 5       *nority Small Business Procurement Opportunities Act of*  
 6       *1994”.*

7       **SEC. 2. FUNCTIONS OF SMALL BUSINESS ADMINISTRATION.**

8       *The Small Business Act (15 U.S.C. 631 et seq.) is*  
 9       *amended by inserting before section 30 the following:*

10       *“SEC. 29. The Administrator of the Small Business*  
 11       *Administration, in coordination with other Federal agen-*  
 12       *cies, shall—*

13               *“(1) develop plans to coordinate and promote the*  
 14       *use of the Federal Acquisition Computer Network by*  
 15       *small businesses that incorporate outreach efforts by*  
 16       *the Administration, agency Offices of Small and Dis-*  
 17       *advantaged Business Utilization, Small Business De-*  
 18       *velopment Centers, and other appropriate organiza-*  
 19       *tions;*

1           “(2) inform and provide consistent and com-  
2           prehensive training on the Federal Acquisition Com-  
3           puter Network for small businesses; and

4           “(3) provide Minority Business Development  
5           Centers and other minority business assistance pro-  
6           grams of the Department of Commerce information  
7           on procurement opportunities and access to the Fed-  
8           eral Acquisition Computer Network.”.

9   **SEC. 3. SMALL BUSINESS RESERVATION.**

10       Section 15(j) of the Small Business Act (15 U.S.C.  
11   644(j)) is amended to read as follows:

12       “(j)(1) Each contract for the procurement of goods and  
13   services that has an anticipated value not in excess of  
14   \$100,000 or the simplified acquisition threshold, whichever  
15   is higher, shall be reserved exclusively for small business  
16   concerns unless the contracting officer is unable to obtain  
17   offers from 2 or more small business concerns that (A) are  
18   competitive with market prices, and (B) are competitive  
19   with regard to the quality and delivery of the goods or serv-  
20   ices being procured.

21       “(2) In carrying out paragraph (1), a contracting offi-  
22   cer shall consider any effort that is responsive and that is  
23   received in a timely manner from an eligible small business  
24   offeror.

1       “(3) Nothing in paragraph (1) shall be construed as  
 2       precluding an award of a contract with a value not in ex-  
 3       cess of \$100,000 under the authority of—

4               “(A) section 8(a) of this Act;

5               “(B) section 2323 of title 10, United States Code;

6               “(C) subsection (g) of this section; or

7               “(D) section 12 of the Business Opportunity De-  
 8       velopment Reform Act of 1988.

9       “(4) A purchase by an executive agency with an an-  
 10       ticipated value of the micropurchase threshold or less shall  
 11       not be subject to the small business reserve requirements of  
 12       paragraph (1).”.

13   **SEC. 4. TECHNICAL AND CONFORMING CHANGES.**

14       (a) *SIMPLIFIED ACQUISITION THRESHOLD DE-*  
 15       *FINED.*—Section 3(m) of the Small Business Act (15 U.S.C.  
 16       632(m)) is amended to read as follows:

17               “(m) For purposes of this Act, the term ‘simplified ac-  
 18       quisition threshold’ has the meaning given such term in sec-  
 19       tion 4A of the Office of Federal Procurement Policy Act and  
 20       the term ‘micro-purchase threshold’ has the meaning given  
 21       such term in section 4B(e) of such Act.”.

22       (b) *CONFORMING AMENDMENT.*—Section 8(d)(2)(A) of  
 23       the Small Business Act (15 U.S.C. 637(d)(2)(A)) is amend-  
 24       ed by striking “does not exceed the small purchase thresh-

1 *old” and inserting “is for an amount not in excess of the*  
2 *simplified acquisition threshold”.*

3 ***SEC. 5. CONTRACT GOALS FOR SMALL BUSINESSES OWNED***  
4 ***BY SOCIALLY DISADVANTAGED INDIVIDUALS***  
5 ***AND BY WOMEN.***

6 *Section 15(g) of the Small Business Act (15 U.S.C.*  
7 *644(g)) is amended to read as follows:*

8 *“(g)(1) In order to carry out the small business objec-*  
9 *tives and findings set forth in section 2(a) of this Act, and*  
10 *in order to help remedy the past discrimination against*  
11 *businesses owned and controlled by socially disadvantaged*  
12 *individuals as set forth in the congressional findings in sec-*  
13 *tion 2(f) of this Act, and in order to help remedy the past*  
14 *discrimination against businesses owned and controlled by*  
15 *women as set forth in the congressional findings in section*  
16 *2(h) of this Act, the President annually shall establish Gov-*  
17 *ernment-wide goals, which shall not be interpreted as*  
18 *quotas, for procurement contracts awarded to small business*  
19 *concerns, small business concerns owned and controlled by*  
20 *socially disadvantaged individuals, and small business con-*  
21 *cerns owned and controlled by women. The Government-*  
22 *wide goal for participation by small business concerns shall*  
23 *be established at not less than 25 percent of the total value*  
24 *of all prime contract awards for each fiscal year. The Gov-*  
25 *ernment-wide goal for participation by small business con-*

1   cerns owned and controlled by socially disadvantaged indi-  
2   viduals shall be established at not less than 5 percent of  
3   the total value of all prime contract and subcontract awards  
4   for each fiscal year. The Government-wide goal for partici-  
5   pation by small business concerns owned and controlled by  
6   women shall be established at not less than 5 percent of the  
7   total value of all prime contract and subcontract awards  
8   for each fiscal year. Individual agency small business and  
9   women-owned small business goals shall be negotiated an-  
10  nually between each agency and the Administration.

11       “(2) A goal of not less than 5 percent of the amount  
12  described in paragraph (4) shall be established by each exec-  
13  utive agency in each of fiscal years 1994 through 2000 for  
14  the total combined amount obligated for contracts, includ-  
15  ing any agency contracts for such things as travel services  
16  and food services which do not directly involve appro-  
17  priated or obligated funds but from which the agency de-  
18  rives benefit, and subcontracts entered into with small busi-  
19  ness concerns owned and controlled by socially disadvan-  
20  taged individuals, the majority of the earnings of which di-  
21  rectly accrue to such individuals.

22       “(3) The Administrator for Federal Procurement Pol-  
23  icy, in consultation with the Administration, shall provide  
24  procedures or guidelines for contracting officers to set goals  
25  which executive agency prime contractors that are required

1 *to submit subcontracting plans under section 8(d) in fur-*  
2 *therance of the agency's program to meet the 5 percent goal*  
3 *specified in paragraph (2) should meet in awarding sub-*  
4 *contracts to entities described in that paragraph.*

5       “(4) *The requirements of paragraphs (2) and (3) for*  
6 *any fiscal year apply to the total value of all prime contract*  
7 *awards entered into by the executive agency for such fiscal*  
8 *year.*

9       “(5)(A) *To attain the goal specified in paragraph (2),*  
10 *the head of the agency shall provide technical assistance to*  
11 *the entities described in that paragraph.*

12       “(B) *Technical assistance provided under this section*  
13 *shall include information about the program, advice about*  
14 *the agency's procurement procedures, instruction in prepa-*  
15 *ration of proposals, and such other assistance as the agency*  
16 *head considers appropriate. If the resources of the executive*  
17 *agency are inadequate to provide such assistance, the agen-*  
18 *cy head may enter into contracts with minority private sec-*  
19 *tor entities with experience and expertise in the design, de-*  
20 *velopment, and delivery of technical assistance services to*  
21 *eligible individuals, business firms and institutions, acqui-*  
22 *sition agencies, and prime contractors. Agency contracts*  
23 *with such entities shall be awarded annually based upon,*  
24 *among other things, the number of minority small business*  
25 *concerns that each such entity brings into the program.*

1       “(6) To attain the goal of paragraph (2):

2               “(A) The head of the agency shall—

3                       “(i) ensure that substantial progress is  
4                       made in increasing awards of agency contracts  
5                       to entities described in paragraph (2);

6                       “(ii) exercise his or her authority, resource-  
7                       fulness, and diligence; and

8                       “(iii) actively monitor and assess the  
9                       progress of prime contractors of the agency in at-  
10                      taining such goal.

11               “(B) In making the assessment under subpara-  
12               graph (A)(iii), the agency head shall evaluate the ex-  
13               tent to which use of the authority provided by sub-  
14               paragraphs (C) and (D) and compliance with the re-  
15               quirement of subparagraph (E) is effective for facili-  
16               tating the attainment of the goal described in para-  
17               graph (2).

18               “(C) To the extent practicable, and when nec-  
19               essary to facilitate achievement of the goal described  
20               in paragraph (2), the agency head shall make ad-  
21               vance payments under section 305 of the Federal  
22               Property and Administrative Services Act of 1949 to  
23               contractors described in paragraph (2) of this sub-  
24               section. The Federal Acquisition Regulation shall pro-  
25               vide guidance to contracting officers for making ad-



1        *vance payments to entities described in subsection*  
2        *(a)(1) of this section under section 305 of the Federal*  
3        *Property and Administrative Services Act of 1949.*

4            *“(D) To the extent practicable and when nec-*  
5        *essary to facilitate achievement of the goal described*  
6        *in paragraph (2), the agency head may enter into*  
7        *contracts using less than full and open competitive*  
8        *procedures (including awards under section 8(a)) and*  
9        *partial set asides for entities described in paragraph*  
10       *(2), but shall, except when using competition open*  
11       *only to small businesses, pay a price not exceeding*  
12       *fair market cost by more than 10 percent in payment*  
13       *per contract to contractors or subcontractors described*  
14       *in paragraph (2). The agency head shall adjust the*  
15       *percentage specified in the preceding sentence for any*  
16       *industry category if available information clearly in-*  
17       *dicates that nondisadvantaged small business con-*  
18       *cerns in such industry category are generally being*  
19       *denied a reasonable opportunity to compete for con-*  
20       *tracts because of the use of that percentage in the ap-*  
21       *plication of this paragraph.*

22            *“(E) To the extent practicable, the agency head*  
23        *shall maximize the number of socially disadvantaged*  
24        *small business concerns participating in the program.*

1           “(F) *The Administrator for Federal Procurement*  
2           *Policy, in consultation with the Administration, shall*  
3           *prescribe regulations which provide for the following:*

4                   “(i) *Procedures or guidance for contracting*  
5                   *officers to provide incentives for prime contrac-*  
6                   *tors described in paragraph (2) to increase sub-*  
7                   *contractor awards to entities described in such*  
8                   *paragraph.*

9                   “(ii) *A requirement that contracting officers*  
10                  *emphasize the award of contracts to entities de-*  
11                  *scribed in paragraph (2) in all industry cat-*  
12                  *egories, including those categories in which such*  
13                  *entities have not traditionally dominated.*

14                  “(iii) *Guidance to executive agency person-*  
15                  *nel on the relationship among the following pro-*  
16                  *grams:*

17                          “(I) *The program implementing this*  
18                          *subsection.*

19                          “(II) *The program established under*  
20                          *section 8(a).*

21                          “(III) *The small business set-aside pro-*  
22                          *gram established under subsection (a).*

23                   “(iv) *With respect to an agency procure-*  
24                   *ment which is reasonably likely to be set aside*  
25                   *for entities described in paragraph (2), a re-*

1        *quirement that, to the maximum extent prac-*  
2        *ticable, the procurement be designated as such a*  
3        *set-aside before the solicitation for the procure-*  
4        *ment is issued.*

5                *“(v) Policies and procedures that, to the*  
6        *maximum extent practicable, will ensure that*  
7        *current levels in the number or dollar value of*  
8        *contracts awarded under the program established*  
9        *under section 8(a) and under the small business*  
10       *set-aside program established under subsection*  
11       *(a) of this section are maintained and that every*  
12       *effort is made to provide new opportunities for*  
13       *contract awards to eligible entities, in order to*  
14       *meet the goal of paragraph (2) of this subsection.*

15               *“(vi) Implementation of this section in a*  
16       *manner which will not alter the procurement*  
17       *process under the program established under sec-*  
18       *tion 8(a).*

19               *“(vii) A requirement that one factor used in*  
20       *evaluating the performance of a contracting offi-*  
21       *cer will be the ability of the officer to increase*  
22       *contract awards to entities described in para-*  
23       *graph (2).*

24               *“(viii) Increased technical assistance to en-*  
25       *tities described in paragraph (2).*

1       “(7)(A) Whoever for the purpose of securing a contract  
2 or subcontract under paragraph (2), misrepresents the sta-  
3 tus of any concern or person as a small business concern  
4 owned and controlled by socially disadvantaged individuals  
5 (as described in paragraph (2)) shall be punished by im-  
6 prisonment for not more than 1 year or a fine of not less  
7 than \$10,000, or both.

8       “(B) The Federal Acquisition Regulation shall pro-  
9 hibit awarding a contract under this section to an entity  
10 described in paragraph (2) unless the entity agrees to com-  
11 ply with the requirements of subsection (o)(1).

12       “(8)(A) To the maximum extent practicable, the head  
13 of the agency shall—

14               “(i) ensure that no particular industry category  
15 bears a disproportionate share of the contracts award-  
16 ed to attain the goal established by paragraph (2);  
17 and

18               “(ii) ensure that contracts awarded to attain the  
19 goal established by paragraph (2) are made across the  
20 broadest possible range of industry categories.

21       “(B) Under procedures prescribed by the head of the  
22 agency in consultation with the Administration, a person  
23 may request the agency head to determine whether the use  
24 of small disadvantaged business set-asides by a contract ac-  
25 tivity of the agency has caused a particular industry cat-

1 egory to bear a disproportionate share of the contracts  
2 awarded to attain the goal established for that contracting  
3 activity for the purposes of this subsection. Upon making  
4 a determination that a particular industry category is  
5 bearing a disproportionate share, the agency head shall take  
6 appropriate actions to limit the contracting activity's use  
7 of set-asides in awarding contracts in that particular in-  
8 dustry category and to increase the contracting activity's  
9 use of set-asides in awarding contracts in other industry  
10 categories.

11       “(9)(A) The Administrator for Federal Procurement  
12 Policy, in consultation with the Administration, shall issue  
13 regulations to ensure that potential contractors submitting  
14 sealed bids or competitive proposals to the executive agency  
15 for procurement contracts to be awarded under the program  
16 provided for by this subsection are complying with applica-  
17 ble subcontracting plan requirements of section 8(d).

18       “(B) The regulations required by subparagraph (A)  
19 shall ensure that, with respect to a sealed bid or competitive  
20 proposal for which the bidder or offeror is required to nego-  
21 tiate or submit a subcontracting plan under section 8(d),  
22 the contracting plan shall be a factor in evaluating the bid  
23 or proposal.

24       “(10)(A) Not later than December 15 of each year, the  
25 Administration shall submit to Congress a report on the

1 *progress of each executive agency toward attaining the goal*  
2 *of paragraph (2) during the preceding fiscal year.*

3 *“(B) The report required under subparagraph (A)*  
4 *shall include a description of—*

5 *“(i) the degree of participation by small business*  
6 *concerns owned and controlled by socially disadvan-*  
7 *tagged individuals in procurements conducted by each*  
8 *executive agency, including information concerning*  
9 *the race and gender of such individuals; and*

10 *“(ii) the extent of compliance by executive agen-*  
11 *cies with the goals for participation by such business*  
12 *concerns required by paragraph (1), relating to Gov-*  
13 *ernment-wide small business, small disadvantaged*  
14 *business, and women-owned small business goals for*  
15 *procurement contracts.*

16 *“(11) This subsection shall not be construed as modify-*  
17 *ing or superseding any other provision of law establishing*  
18 *the program under section 2323 of title 10, United States*  
19 *Code, or a goal or requirement for an agency to obligate*  
20 *5 percent, or more than 5 percent, of the total value of all*  
21 *prime contract awards entered into by the agency for a fis-*  
22 *cal year with any entity described in paragraph (2).*

23 *“(12) For the purposes of this subsection, an individ-*  
24 *ual shall be considered to be socially disadvantaged if the*  
25 *individual has a physical or mental impairment that—*

1           “(A) substantially limits one or more of the  
2           major life activities of the individual; and

3           “(B) has been found by the Administration to re-  
4           sult in a socially disadvantaged status for the class  
5           of individuals having such impairment.

6           “(13)(A) Not later than 1 year after the date of the  
7           enactment of this paragraph, the Administration shall issue  
8           regulations to make uniform the procedure by which a small  
9           business concern may qualify as a small business concern  
10          owned and controlled by socially disadvantaged individuals  
11          for the purposes of this subsection.

12          “(B) Regulations to be issued pursuant to subpara-  
13          graph (A) shall provide, at a minimum, for the following:

14               “(i) Specification of the requirements for quali-  
15               fying as a small business concern owned and con-  
16               trolled by socially disadvantaged individuals for the  
17               purposes of this subsection.

18               “(ii) Establishment of a uniform procedure to be  
19               applied by each executive agency in the certification  
20               of small business concerns meeting the requirements  
21               specified pursuant to clause (i).

22          “(C) For the purposes of this subsection, an executive  
23          agency may not require a small business concern for which  
24          a certification issued by another executive agency pursuant  
25          to subparagraph (B)(ii) is in effect to make any additional

1 *showing that the small business concern qualifies as a small*  
 2 *business concern owned and controlled by socially disadvan-*  
 3 *tagged individuals.*

4 “(14) This subsection shall not be construed as modify-  
 5 ing or superseding eligibility requirements for participa-  
 6 tion in any other program established by this Act.

7 “(15) This subsection applies to each of fiscal years  
 8 1994 through 2000.”.

9 **SEC. 6. ENCOURAGEMENT OF INNOVATIVE PAYMENT METH-**  
 10 **ODS.**

11 *Section 15(k)(5) of the Small Business Act (15 U.S.C.*  
 12 *644(k)(5)) is amended by striking the semicolon at the end*  
 13 *and inserting the following: “, and encourage procurement*  
 14 *officials to implement innovative payment methods, includ-*  
 15 *ing, but not limited to, advance payments or payments for*  
 16 *mobilization costs, in the award or negotiation of contracts*  
 17 *to small business concerns,”.*

18 **SEC. 7. MAINTAINING SMALL BUSINESS ACCESS TO CON-**  
 19 **TRACTING OPPORTUNITIES.**

20 *Section 8 of the Small Business Act (15 U.S.C. 637)*  
 21 *is amended—*

22 (1) *in subsection (e)(1)(A), by striking “the*  
 23 *small purchase threshold” each place it appears and*  
 24 *inserting “\$25,000”;*



1           (2) in subsection (g)(1), by redesignating sub-  
2       paragraphs (A), (B), (C), (D), and (E) as subpara-  
3       graphs (B), (C), (D), (E), and (F), respectively, and  
4       by inserting before subparagraph (B), as so redesign-  
5       ated, the following:

6           “(A) the proposed procurement is conducted by  
7       means of electronic commerce under the Federal Ac-  
8       quisition Computer Network System established pur-  
9       suant to the Office of Federal Procurement Policy  
10      Act;”;

11          (3) in subsection (e)(1)(B), by striking “(B)”  
12      and all that follows before clause (i) and inserting the  
13      following:

14          “(B) an executive agency soliciting offers for the  
15      purchase of property or services shall post in a public  
16      place at the contracting office a notice of the contract-  
17      ing opportunity (meeting the standards of subsection  
18      (f)) and receive offers in response to such notice for  
19      a period of not less than 10 days—”; and

20          (4) in subsection (e), by adding at the end the  
21      following:

22          “(4) Whenever an executive agency conducts a procure-  
23      ment by means of electronic commerce under the Federal  
24      Acquisition Computer Network System established pursu-  
25      ant to the Office of Federal Procurement Policy Act, the

1 *solicitation of offers shall prescribe a deadline for the sub-*  
 2 *mission of offers that—*

3           “(A) *in the case of a solicitation to furnish a*  
 4 *commercial item, is not less than 5 days;*

5           “(B) *in the case of a solicitation to furnish any*  
 6 *other type of product, is not less than 10 days;*

7           “(C) *in the case of a solicitation to furnish advi-*  
 8 *sory and assistance services, is not less than 20 days;*  
 9 *and*

10           “(D) *in the case of solicitation to furnish any*  
 11 *other type of service, is not less than 15 days.”.*

12 ***SEC. 8. SIMPLIFIED ACQUISITION THRESHOLD.***

13           (a) *MEASURING EFFECT ON SMALL BUSINESS PAR-*  
 14 *TICIPATION.—Until October 1, 1999, procuring activities*  
 15 *shall report procurement awards with a dollar value of at*  
 16 *least \$10,000, but less than \$100,000, in conformity with*  
 17 *the procedures or the reporting of a contract award in excess*  
 18 *of \$25,000 that were in effect on October 1, 1992.*

19           (b) *FAST PAYMENT PROCEDURES.—*

20           (1) *RESPONSIBILITIES OF THE ADMINIS-*  
 21 *TRATOR.—The Administrator of the Small Business*  
 22 *Administration shall propose a modification to the*  
 23 *Federal Acquisition Regulation that provides for the*  
 24 *use of the payments terms described in paragraph (2),*

1     *and for the disbursement of payment through elec-*  
2     *tronic fund transfer, whenever circumstance permits.*

3             (2) *REQUIRED PAYMENT TERMS.*—*Unless miti-*  
4     *gating circumstances preclude, the payment terms for*  
5     *a purchase or classes of purchases made pursuant to*  
6     *simplified acquisition procedures shall require pay-*  
7     *ment, in accordance with the provisions of chapter 39*  
8     *of title 31, United States Code, not later than 15 days*  
9     *after the date of receipt of a proper invoice for prod-*  
10    *ucts delivered or services performed if—*

11            (A) *in the case of a purchase of property,*  
12            *title to the property will vest in the Government*  
13            *upon delivery of the property to the Government*  
14            *or to a common carrier; and*

15            (B) *in the case of property or services for*  
16            *which payment is due before the Government's*  
17            *acceptance of the property or services, the vendor*  
18            *provides commercial or other appropriate war-*  
19            *ranties assuring that the property or services*  
20            *purchased conform to the requirements set forth*  
21            *in the Government's purchase offer.*

1 **SEC. 9. EXPEDITED RESOLUTION OF CONTRACT ADMINIS-**  
2 **TRATION MATTERS.**

3 (a) *REGULATIONS REQUIRED.*—The Federal Acquisi-  
4 tion Regulation shall include provisions that require a con-  
5 tracting officer—

6 (1) *to make every reasonable effort to respond in*  
7 *writing within 30 days to any written request to a*  
8 *matter relating to the administration of a contract*  
9 *that is received from a small business concern; and*

10 (2) *in the event that the contracting officer is*  
11 *unable to render a decision within the 30-day period,*  
12 *to transmit to the contractor within such period a*  
13 *written notification of a specific date by which the*  
14 *contracting officer expects to render a decision.*

15 (b) *RULE OF CONSTRUCTION.*—Nothing in this section  
16 shall be considered as creating any rights under the Con-  
17 tract Disputes Act of 1978.

18 (c) *DEFINITION.*—In this section, the term “small busi-  
19 ness concern” means a business concern that meets the re-  
20 quirements of section 3(a) of the Small Business Act and  
21 the regulations promulgated pursuant to such section.

22 **SEC. 10. PROTECTIONS FOR SMALL BUSINESS.**

23 Section 15(b) of the Small Business Act (15 U.S.C.  
24 644(b)) is amended by striking “(b)” and inserting “(b)(1)”  
25 and by adding at the end the following:

1       “(2) No contracting procurement agency shall use any  
2 market acceptance criterion which would preclude small  
3 business concerns from being eligible for the contract award  
4 solely on the basis of being unable to supply a quantity  
5 of product when the same amount of product could be ob-  
6 tained from a number of small business suppliers.”.

7       **SEC. 11. DEADLINES FOR ISSUANCE OF REGULATIONS.**

8       (a) *PROPOSED REGULATIONS.*—Proposed amendments  
9 to the Federal Acquisition Regulation or proposed Small  
10 Business Administration regulations shall be published not  
11 later than 120 days after the date of the enactment of this  
12 Act for the purpose of obtaining public comment pursuant  
13 to either section 22 of the Office of Federal Procurement  
14 Policy Act or the Administrative Procedures Act, as appro-  
15 priate. The public shall be afforded not less than 60 days  
16 to submit comments.

17       (b) *FINAL REGULATIONS.*—Final regulations shall be  
18 published and become effective not later than 270 days after  
19 the date of the enactment of this Act.

20       **SEC. 12. ANNUAL REPORTS.**

21       (a) *CORRECTION OF DATA.*—The Administrator for  
22 Federal Procurement Policy, in consultation with the Ad-  
23 ministration, the Secretary of Commerce, the Secretary of  
24 Defense, and other appropriate agencies, shall supervise the

1 *collection of data (either actual data or data acquired by*  
2 *valid statistical sample) on—*

3 *(1) the number of small business concerns owned*  
4 *and controlled by socially disadvantaged individuals*  
5 *or owned and controlled by women;*

6 *(2) the number of such small business concerns*  
7 *which compete for or otherwise apply for Federal con-*  
8 *tracts; and*

9 *(3) the number and dollar amounts of Federal*  
10 *contracts awarded to such small business concerns.*

11 *Such statistics shall be gathered on an annual basis and*  
12 *shall be done by industry category or classes of such cat-*  
13 *egories.*

14 *(b) REPORTS.—On the basis of the statistics required*  
15 *to be collected under subsection (a), and on the basis of other*  
16 *sources of relevant information, the President shall report*  
17 *annually to Congress on the progress that small business*  
18 *concerns described in subsection (a) are making in obtain-*  
19 *ing a fair and equitable share of Federal procurement dol-*  
20 *lars. The President shall also assess the extent to which the*  
21 *Federal procurement system, or parts thereof, continues to*  
22 *require affirmative actions, such as the goals set forth in*  
23 *section 15(g) of the Small Business Act (as amended by sec-*  
24 *tion 5 of this Act) in order to remedy past or presently*

1 *remaining discrimination against such small business con-*  
2 *cerns.*

3 **SEC. 13. SMALL BUSINESS CONCERNS OWNED BY WOMEN.**

4 (a) *SUBCONTRACT PARTICIPATION.*—Section 8(d) of  
5 the Small Business Act (15 U.S.C 637(d)) is amended—

6 (1) by striking “and small business concerns  
7 owned and controlled by socially and economically  
8 disadvantaged individuals” both places it appears in  
9 paragraph (1), both places it appears in paragraph  
10 (3)(A), in paragraph (4)(D), in subparagraphs (A)  
11 and (F) of paragraph (6), and in paragraph (10)(B)  
12 and inserting “, small business concerns owned and  
13 controlled by socially disadvantaged individuals, and  
14 small business concerns owned and controlled by  
15 women”;

16 (2) by striking subparagraph (D) in paragraph  
17 (3) and inserting the following:

18 “(E) Contractors acting in good faith may relay  
19 on written representations by their subcontractors re-  
20 garding their status as either small business concern,  
21 a small business concern owned and controlled by so-  
22 cially disadvantaged individuals, or a small business  
23 concern owned and controlled by women.”;

24 (3) in paragraph (3), by inserting after subpara-  
25 graph (C) the following new subparagraph (D):

1           “(D) The term ‘small business concern owned  
2           and controlled by women’ shall mean a small business  
3           concern—

4                   “(i) which is at least 51 percent owned by  
5           one or more women; or, in the case of any pub-  
6           licly owned business, at least 51 percent of the  
7           stock of which is owned by one or more women;  
8           and

9                   “(ii) whose management and daily business  
10          operations are controlled by one or more  
11          women.”;

12          (4) in paragraph (4)(E), by inserting “and for  
13          small business concerns owned and controlled by  
14          women” after “as defined in paragraph (3) of this  
15          subsection”; and

16          (5) in paragraph (6)(C), by striking “and small  
17          business concerns owned and controlled by the socially  
18          and economically disadvantaged individuals” and in-  
19          serting “; small business concerns owned and con-  
20          trolled by socially disadvantaged individuals, and  
21          small business concerns owned and controlled by  
22          women”.

23          (b) MISREPRESENTATIONS OF STATUS.—(1) Sub-  
24          section (d)(1) of section 16 of such Act (15 U.S.C. 645) is  
25          amended by striking “or ‘small business concern owned and



1 *controlled by socially and economically disadvantaged indi-*  
 2 *viduals’ ” and inserting the following: “, or a ‘small busi-*  
 3 *ness concern owned and controlled by socially and economi-*  
 4 *cally disadvantaged individuals’, or a ‘small business con-*  
 5 *cern owned and controlled by socially disadvantaged indi-*  
 6 *viduals’, or a ‘small business concern owned and controlled*  
 7 *by women’ ”.*

8       (2) *Subsection (e) of such section is amended by strik-*  
 9 *ing “or ‘small business concern owned and controlled by*  
 10 *socially and economically disadvantaged individuals’ ” and*  
 11 *inserting “, or a ‘small business concern owned and con-*  
 12 *trolled by socially and economically disadvantaged individ-*  
 13 *uals’, or a ‘small business concern owned and controlled by*  
 14 *socially disadvantaged individuals’, or a ‘small business*  
 15 *concern owned and controlled by women’ ”.*

16       (c) *DEFINITION.—Section 3 of such Act (15 U.S.C.*  
 17 *632) is amended by adding at the end the following:*

18       “(n) *For the purposes of this Act, a small business con-*  
 19 *cern is a small business concern owned and controlled by*  
 20 *women if—*

21               “(1) *at least 51 percent of small business concern*  
 22 *is owned by 1 or more women or, in the case of pub-*  
 23 *licly owned business, at least 51 percent of the stock*  
 24 *of which is owned by 1 or more women; and*

1           “(2) *the management and daily business oper-*  
2           *ations of the business are controlled by 1 or more*  
3           *women.*”.

○

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